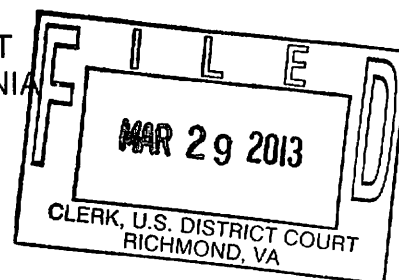


UNITED STATES DISTRICT COURT
FOR EASTERN DISTRICT OF VIRGINIA



Ms. DARNELL W. WALKER,

12037 Journeys End Trail
Huntersville, NC 28078

804-920-2114
Plaintiff,

v.

Serve:
VIRGINIA ARMY NATIONAL GUARD;
MAJOR GENERAL DANIEL E. LONG, JR in
his official capacity as The Adjutant General

5901 Beulah Road
Sandston, VA 23150

Defendant.

3:13CV196

COMPLAINT FOR DECLATORY AND INJUNCTIVE RELIEF

This is an action under the Freedom of Information Act, 5 U.S.C. § 552("FOIA"), for declaratory relief, seeking, principally, the immediate production of agency records requested by the plaintiff Ms. Darnell Walker (Ms. Walker) regarding a 15-6 and one initial and one appeal Equal Opportunity ("EO") investigation. VaARNG has violated FOIA by; (i) improperly withholding records; (ii) conducting an inadequate search for requested records; (iii) failing to respond to Ms. Walker's request for records within the time period mandated by FOIA.

2. Ms. Walker seeks: (i) a declaration that the records sought are subject disclosure under FOIA;(ii) affirmative relief requiring VaARNG to immediately produce all responsive records that have been unlawfully withheld or redacted, and to conduct an adequate search for requested records; and (iii) an award of reasonable attorney's fees and other litigation costs.

JURISDICTION AND VENUE

3. This court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a) (4) (B)

and § 1331.

4. Venue lies in this district under 5 U.S.C. § 552(a) (4) (B) 28 U.S. C. § 1331(e).

5. Declaratory relief is authorized by 28 U.S.C. §§ 2201-2202 and Rule U.S.C. § 1391(e) of the Federal Rules of Civil Procedure, Fed. R. Civ. P. 57.

PARTIES

6. Plaintiff Ms. Darnell Walker is a retired member of the Virginia Army National and is the requester of the records which defendant is now withholding. Ms. Walker has been deprived by the VaARNG important information essential to correcting injustices and erroneous information contained in her military records and until documents requested under FOIA are produced Ms. Walker is unable to appeal to the Army Board of Military Corrections as recommended by the VaARNG

Defendant VaARNG is a reserve military force of the United States. VaARNG is an agency within the meaning of the 5 U.S.C. § 552(f) (1).

FACTUAL ALLEGATIONS

7. The Plaintiff Ms. Walker has submitted several FOIA requests from 2009 through 2012 to the VaARNG. The VaARNG never denied any requests but has only provided partial documents. The VaARNG has failed to process the entire contents of both the 15-6 and EO investigations. On September 9, 2009 the results of an EO investigation results was published. Ms. Walker was sent a partial report of the results. Ms. Walker appealed the initial EO results initiating another EO investigation which produced

further results leading to a formal 15-6 investigation. Ms Walker was provided via email a partial copy of the results of the EO complaint on October 1, 2009. In an email sent from a VaARNG representative to Ms. Walker the final EO investigation results and documents were supposed to be released. Ms. Walker received in the email attaching the same partial report as received on September 9, 2009. There were no new documents included from the initial EO investigation and the appeal EO investigation. Ms. Walker requested the EO report again using FOIA from a VaARNG representative via email on December 2, 2010 and received the same partial but newly redacted report as in September 9, 2009. The FOIA requests and response is attached in Exhibit 1.

8. Ms. Walker requested via email on December 2, 2010 using FOIA for all EO documents. Ms. Walker received the partial documents on December 3, 2010 from the initial EO investigation and received no documents from the EO appeal investigation. There were no emails or correspondence denying any part of the FOIA or explaining any partial denial of the records based on FOIA exemptions. The correspondence is attached in Exhibit 2.

9. The 15-6 Investigation was completed August 2010. The results were not published to Ms. Walker. Ms. Walker used FOIA to request via email on December 1, 2010 the results of the 15-6 investigation. Ms. Walker received partial contents of the 15-6 investigation on January 14, 2010 which identified in the contents and findings documents numerous statements, references to documents and interviews that was

used and deemed relevant to both 15-6 and EO investigations but was not produced in the FOIA request. The email documents is attached in Exhibit 3.

10. On February 21, 2011, Ms. Belisle, on behalf of Ms. Walker sent a letter to VaARNG requesting FOIA documents. The VaARNG did not respond to Ms. Belisle's request. The invoice is attached as Exhibit 4.

10. Ms Walker sent numerous certified letters to the VaARNG Headquarters Judge Advocate General (JAG) and their FOIA Office between June 2011 and September 2011. The mail certifications is attached as Exhibit 5.

11. On October 5, 2011 Ms Walker received letter from VaARNG representative stating that all documents were sent in the EO investigation and that 15-6 documents would be sent separate. The correspondence is attached in Exhibit 6.

12. Ms Walker contacted North Carolina Congressional office and received letters dated October 27, 2011 from VaARNG Office of Legislative Liaison sent to Representative Myrick and Letter also dated October 27, 2011 sent to VaARNG. The correspondence is attached in Exhibit 7.

13. Ms Walker received on December 16, 2011 correspondence from VaARNG sent to the North Carolina Congressional office. The correspondence is attached as Exhibit 8.

14. On February 7, 2012, and April 19, 2012 Mr. Shields on behalf of Ms. Walker sent two letters to VaARNG requesting corrections to military records and documents. The VaARNG did not respond to Mr. Shields. The correspondence is attached as Exhibit 9.

15. Ms Walker received on February 16, 2012 correspondence from VaARNG sent to the North Carolina Congressional office. The correspondence is attached as Exhibit 10.

16. Ms Walker received the last email from VaARNG representative dated April 10, 2012 stating that all documents requested through FOIA were in the VaARNG representative's possession. Ms. Walker did not receive any documents and no further correspondence from the VaARNG. The correspondence is attached as Exhibit 11.

17. Email traffic for all FOIA requests from 2009 to 2012. The correspondence is attached as Exhibit 12.

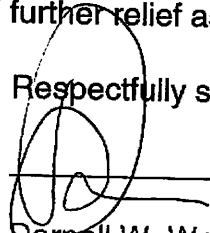
18. Plaintiff has a right of access to the requested information under 5 U.S.C. § 552(a)(3), and there is no legal basis for defendant's denial of such access.

WHEREFORE, plaintiff requests this Court:

- (1) Order defendant to provide access to the requested documents;
- (2) Expedite this proceeding as provided for in 28 U.S.C. § 1657;
- (3) Award plaintiff costs and reasonable attorneys fees in this action, as provided in 5 U.S.C. § 552(a)(4)(E); and

(4) Grant such other and further relief as may deem just and proper.

Respectfully submitted,



Darnell W. Walker

12037 Journeys End Trail
Huntersville, NC 28078



When naming a United States Department, employee, etc. as a defendant, the following must be served:

Attorney General of the United States
Serve: Main Justice Building
10th & Constitution Avenue, N.W.
Washington, D.C. 20530

Serve: United States Attorney for the
Eastern District of Virginia
Main Street Centre, 18th Floor
600 East Main Street
Richmond, Virginia 23219